

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 11-13, 15, 17, 19, 20, 22, 24 and 25 are rejected under 35 U.S.C. 102(b) over the patent to Kato.

Also, claims 11-17 and 19-25 were rejected under 35 U.S.C. 112 as being indefinite.

Claim 23 was considered as allowable.

Claims 11, 14-17, 19 and 21 are also not rejected under 35 U.S.C. 102(b) over the patent to Wilhelm.

In connection with the Examiner's formal rejections of the claims under 35 U.S.C. 112, applicants have amended claim 11, the broadest claim on file, in compliance with the Examiner's requirements.

It is believed that claim 11 no longer is indefinite.

Claim 23 has been amended as well to define that the discs correspondingly limit chambers, as explained on page 10, last paragraph of the specification and shown in the drawings.

If the Examiner is still not willing to accept the very term "correspondingly", he is respectfully authorized to cancel this term. Otherwise, it is believed that claim 23 is definite.

The expression "unloaded" in claim 24 clearly specifies that the safety element during a predetermined operation is not loaded, or in other words no pulling load is applied to it. The advantage of this feature is that the safety element is subjected to an insignificant material fatigue and therefore has a low wear. Thereby a high safety is provided. This feature is a clear structural feature of the hand power tool of the present invention.

Claim 25 defines that the safety element is redundant and functionless during normal operation. It clearly constitutes a part of the present invention. The claim specifically defines that the safety element is configured and arranged so that it is redundant and functionless during normal operation, while in the event of the breakage of the elastic element the gripping part is held by the safety element on the housing. This claim has been somewhat amended to clarify this issue.

It is therefore believed that the grounds for the formal rejections of the claims under 35 U.S.C. 112 should be considered as no longer tenable, and this rejection should be withdrawn.

The Examiner's indication of the allowability of claim 23 has been gratefully acknowledged. In connection with this indication, claim 23 has been amended by incorporating into it the features of claim 11, and this claim is now independent and therefore should be allowed.

In connection with the Examiner's rejection of the claims over the art, applicants have amended claim 11 and added claim 26, which is another independent claim. These claims specifically define a hand power tool in which the safety element is a rigid component which is movable in a tilting direction and in a longitudinal direction relative to the gripping part or to the mounting part.

Turning now to the references and in particular to the patent to Kato, it can be seen that in the hand power tool disclosed in this reference the element which is identified as a safety element is a cable 7 or its insulation. The cable is of course elastic, since it must allow a vibrating movement of the vibrator 1 in a radial direction and thereby is involved in this vibrating movement. This reference however does not disclose a safety

element which is a rigid element. It is therefore believed that claims 11 and 26 define the feature which is not disclosed in the references and can not be derived from it, and thereby claims 11 and 26 should be considered as new over the patent to Kato.

Claims 11 and 26 also define that the gripping part is connected with the mounting part through the safety element. This is not disclosed in the patent to Kato as well. In the patent to Kato the gripping part 14 is directly connected to the mounting element 11. The cable 7 which in the Examiner's opinion can be equated with the safety element is guided in the element 11 loosely, as can be seen from Figure 1 of the patent to Kato. A connection between the gripping part 14 and the cable 7 via the mounting part is not provided. These features of claims 11 and 26 are therefore also not disclosed in the patent to Kato.

Turning now to the patent to Wilhelm, it is respectfully submitted that the safety element which is a pin G is rigid, however, it is not movable in a tilting direction relative to the gripping part or the mounting part. In the patent to Wilhelm the pin G is guided in a sleeve Q, for holding the machine with the handle against a tilting movement. A tilting movement of the handle relative to the machine and thereby a tilting movement of the pin G relative to the handle or the mounting part is therefore not desirable and

not possible. Therefore this feature defined in claims 11 and 26 is not disclosed in the patent to Wilhelm.

Claims 11 and 26 are also new over a combination of the patents to Kato and Wilhelm. When a person skilled in the art familiarize himself with the teaching of the patent to Kato, it will find that the patent to Kato does not disclose a rigid safety element. The flexible cable 7 in the patent to Kato can not be replaced by a rigid element, since the operation of the vibrator and the elastic element 8 will be completely destroyed. The vibrator would transmit its vibrations to the handle undamped, so that the vibrator first of all can not be operational and secondly it can not operate in a desired manner, since it will lose a greater part of its vibration energy. It is believed to be clear that a person skilled in the art would never make such a combination.

If one considers first the teaching of the patent to Wilhelm, this reference does not disclose the feature of the movement in a tilting direction. If the pin G, as disclosed in the patent to Wilhelm, is replaced by a flexible element, then the impact tool of the patent to Wilhelm can not be guided and can not be operational. The guide which is provided in the patent to Wilhelm by the rigid pin and in particular the guiding sleeve Q would be destroyed

with an elastic element instead of the pin G. Therefore, a person skilled in the art would not provide such a combination as well.

It is therefore believed to be clear that the new features of the present invention as defined in claims 11 and 26 can not be considered as obvious from the combination of the patents to Kato and Wilhelm.

Claim 20 was rejected by the Examiner over the patent to Kato. In accordance with claim 20, the safety element is connected with a gripping part exclusively through the elastic element. In the patent to Kato however the supposed safety element 7 is not connected with an elastic element at all, but instead is guided loose through the elastic element. Therefore it can not be "exclusively" connected via the elastic element with the gripping part, but instead only through further additional elements. In view of these arguments, it is believed that the features of claim 20 also patentably distinguish the present invention from the prior art.

Claim 21 was rejected over the patent to Wilhelm, it is believed that the Examiner's rejection is not tenable. Claim 21 defines that the safety element is surrounded completely by the elastic vibration damping element. The patent to Wilhelm the pin G is surrounded by a spring R, but not completely and the pin G extends upwardly and downwardly beyond the

spring. With a "complete" surrounding, the safety element must be surrounded at each side of the elastic element. Therefore claim 21 should also be considered as patentably distinguishing over the art and should be allowed.

Claim 22 was also rejected over the patent to Wilhelm. In accordance with claim 22 the mounting part and the gripping part are provided with sleeves and discs, wherein a distance between the discs and the safety element is filled with an elastic material. In the patent to Wilhelm between the sleeves springs are arranged which however do not fill the corresponding space. It is therefore believed that claim 22 also patentably distinguishes the present invention from the patent to Wilhelm.

As for the other claims, these claims depend on the corresponding independent claim, they share its presumably allowable features, and therefore they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in

formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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